

REMARKS/ARGUMENTS

Claims 1-21 are canceled. New claims 22-43 are added.

It is respectfully submitted that the new claims do not add any new matter. The recited life expectancy profile (LEP) model is described in the specification at, e.g., page 8, lines 1-3; and page 9, lines 16-21. The recited determination of the LEP model is described in the specification at, e.g., page 8, lines 11-24. Descriptions of the new dependent claims are found throughout the specification.

A. TELEPHONE INTERVIEW OF APRIL 5, 2005

The Applicants thank the Examiner Kalinowski for this interview; participating were Examiner, inventor Dr. Richard Miller, and attorneys Paul Greeley and Dwight Renfrew. The structure and operation of the claimed invention was discussed by Dr. Miller, and the pending claims were then discussed.

B. CLAIM REJECTIONS UNDER 35 U.S.C. § 101

The Examiner has rejected claims 11, 13, 14, and 16-18 under 35 U.S.C. § 101 as being not directed to statutory subject matter, because they are contended not to be within the technological arts. As suggested by the Examiner, the bodies of all new claims recite essential computer apparatus and/or computer instructions. They are respectfully submitted to be directed to statutory subject matter because they are within the technological arts and, as the Examiner has found, they produce a "useful, concrete, and tangible" results. Accordingly, it is respectfully requested that the instant rejections be withdrawn.

C. CLAIM REJECTIONS UNDER 35 U.S.C. § 103

The Examiner has rejected claims 1-19 and 21 under 35 U.S.C. § 103 as being unpatentable over US patent no. 5,031,161 to Kendrick ("Kendrick") in view of US patent no. 5,692,501 to Minturn ("Minturn"), US patent no. 5,937,387 to Summerell et al. ("Summerell"), and US patent no. 5,867,821 to Ballantyne et al. ("Ballantyne").¹

¹ Claim 20 was not specifically rejected by the Examiner.

Independent claim 22 recites, *inter alia*, "a patient-specific life expectancy potential (LEP) model determined in dependence on said patient's stored health profile and comprising life expectancies for said patient and life expectancy importance factors assigned to specific health profile data elements" where "said patient-specific LEP model [is created] by correlative analysis of said patient's stored health profile data and a medical information bank, said medical information bank comprising demographic, geographic, medical, and lifestyle information describing members of a population of a community of which said patient is a member". The other independent claims, claims 29, 34, and 42, contain substantially similar limitations.

It is respectfully submitted that none of the references relied on by the Examiner disclose or teach these limitations. First, a careful reading of Kendrick reveals that this patent does not disclose or teach any life expectancy model, or in fact any model, of any sort. A user of Kendrick's watch can only increment or decrement registers which contain counters for seconds, minutes, hours, days, and years. These counters are then automatically decremented by the watch and their contents displayed. See, e.g., Kendrick, col. 3, lines 41-55 and col. 6, line 38 to col. 7, line 8. Automatically decremented counters cannot be properly considered a model in the sense of the present claims. Thus, Kendrick does not disclose or teach a patient-specific LEP model or methods of creating one.

Next, Minturn describes gathering participant data and from this gathered data numerous producing "10-point scientific wellness scales" and a summary report with "optimal health, fitness, and risk ratings" for the participants. See, e.g., Minturn, Abstract and Figs 1-9 (on 39 sheets). Minturn never discloses or teaches modeling life expectancy instead of wellness. In fact, the Examiner relies on Minturn only for disclosing a computer storing a health profile database. Thus, Minturn also does not disclose or teach a patient-specific LEP model or methods of creating one.

Next, Summerell discloses another wellness system for interactively collecting user information, measuring the user's wellness which includes determining the user's physiological age, and presenting to the user the measured wellness. See, e.g., Summerell at col.4, lines 42-50, col. 6, lines 14-16; and Figs. 14-16. In fact, Summerell explicitly teaches that providing a user with life expectancy recommendations, as the present invention does, is "too abstract and/or

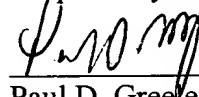
remote in time" and "does not provide the level of information needed". See, e.g., Summerell at col. 1, lines 43-65. Accordingly, since Summerell does not disclose life expectancy modeling, the Examiner relies on this reference only for storing selected health events and recommending goals and incentives. Again, the Summerell reference also does not disclose or teach life expectancy models generally, or patient-specific LEP models specifically, or methods of creating such models.

Finally, Ballantyne discloses only a secure service distribution system that can be used also for medical services, and Examiner relies on Ballantyne only for such a disclosure. See, e.g., Ballantyne, Abstract. Ballantyne also does not disclose or teach a patient-specific LEP model or methods of creating one.

In conclusion, the combination of Kendrick, Minturn, Summerell, and Ballantyne does not disclose or teach the limitations of a patient-specific LEP model or methods of creating one that are recited in all the independent claims and inherited by all the dependent claims. Therefore, these references do not establish a *prima facie* case of obviousness, and withdrawal of the instant rejection is respectfully requested.

6/21/05
Date

Respectfully submitted,



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